

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joy Almeyda	Team: Team # 4	CCRB Case #: 200718569	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 12/24/2007 4:10 PM	Location of Incident: Union Hall Street and Archer Avenue	Precinct: 103	18 Mo. SOL 6/24/2009	EO SOL 6/24/2009	
Date/Time CV Reported Mon, 12/24/2007 4:10 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 12/28/2007 12:31 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christoph Goodwin	20808	943316	103 PCT
2. POF Catherine Gassick	10136	943284	103 PCT
3. An officer			103 PCT
4. Officers			103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Delcar Braun	17274	943021	103 PCT
2. POF Danielle Duignan	14068	943196	103 PCT
3. POM Shaun Weiler	24592	943942	103 PCT
4. POM Thomas Fitzgerald	15621	944061	103 PCT
5. SGT Michael Kelly	04145	905526	103 PCT
6. SGT David Strom	00816	929221	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used pepper spray against § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	
C. POF Catherine Gassick	Force: PO Catherine Gassick used physical force against § 87(2)(b)	
D. An officer	Force: An officer struck § 87(2)(b) with an asp.	
E. POM Christoph Goodwin	Force: PO Christopher Goodwin used physical force against § 87(2)(b)	

## Synopsis

This complaint was initially filed through IAB by § 87(2)(b) on December 24, 2007, who called 911 on behalf of § 87(2)(b). This incident took place at 4:10 PM on December 24, 2007, in the vicinity of Union Hall Street and Archer Avenue in Queens. PO Catherine Gassick and PO Delcar Braun, both impact officers at the 103<sup>rd</sup> Precinct at the time of the incident, stopped § 87(2)(b) while on foot because § 87(2)(b) had a large crack through his front windshield of his livery car. When the officers approached § 87(2)(b) a verbal argument ensued. An additional 103<sup>rd</sup> Precinct impact foot post, PO Thomas Fitzgerald, arrived to assist. § 87(2)(b) allegedly drove forward, almost striking the officers with his vehicle. His car then stalled in the middle of the intersection, where he was again approached by the three named officers.

A struggle ensued as the officers attempted to remove § 87(2)(b) from the vehicle and place him under arrest for the equipment violation due to his non compliance with the officers' directions, and the fact that he almost hit the officers with his vehicle. Pepper spray was utilized at an undetermined point during these interactions (**Allegation A**). § 87(2)(b) provided resistance to the officers' attempts to remove him from the vehicle, and to place him into handcuffs. After being removed from the vehicle, § 87(2)(b) was either taken to the ground or fell. Additional officers from the 103<sup>rd</sup> Precinct, PO Christopher Goodwin and PO Shaun Weiler, assisted the three initial officers in their attempts to place § 87(2)(b) into handcuffs. § 87(2)(b) first refused to give his hands to the officers, and then kicked and pushed them. In response, officers, including PO Gassick, struck § 87(2)(b) in his legs and back (**Allegations B and C**), an officer struck § 87(2)(b) in his leg with an asp (**Allegation D**), and PO Goodwin punched § 87(2)(b) in his ribs (**Allegation E**). § 87(2)(b) PO Weiler, PO Braun, PO Gassick, and PO Fitzgerald all reported injuries as a result of this incident. § 87(2)(b) was arrested for four counts of assault against the injured officers, for an equipment violation due to the large crack in his front windshield, and for unlicensed operation of a motor vehicle. His criminal case related to this incident is still pending in Supreme Court.

§ 87(2)(b), § 87(2)(g)

The case was initially assigned to Inv. Bijan Vafegh and reassigned to Inv. Aurora Maoz upon his departure. Inv. Maoz composed the final report and the report was edited by Inv. David Faherty and Supervisor Joy Stueven.

## Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) a § 87(2)(b)-old dark-skinned black male, § 87(2)(b), made two statements in relation to this incident. He was interviewed by IAB on December 24, 2007, at the § 87(2)(b), and again by the CCRB on February 26, 2008. He was additionally shown photographic arrays by IAB on December 24, 2007, and by the CCRB on March 13, 2008 (Encl. 7 for statements). Although his statements were consistent, his IAB interview was much less detailed. The summary of his complaint, therefore, will be drawn from his in-person CCRB statement.

On December 24, 2007, at approximately 4:10 PM, § 87(2)(b) was stopped at a traffic light at Union Hall Street and Archer Avenue in Queens. § 87(2)(b) was transporting an unknown female passenger in the back of his vehicle. § 87(2)(b) noticed a number of officers cross the street towards his vehicle. Two female officers, identified as PO Gassick and PO Braun, pointed to a crack on § 87(2)(b)'s windshield. § 87(2)(b) told the officers, "I know there is a crack." One of the female officers had black hair and may have been Hispanic. This officer was identified as PO Braun by the investigation. PO Braun then removed her handcuffs from her belt and told § 87(2)(b) to get out of the car so she could handcuff him. § 87(2)(b) said, "Why, for a crack in my windshield? You cannot arrest me for a crack in the windshield." § 87(2)(b) described the crack as about 10 inches long. The officers then asked § 87(2)(b) to exit the vehicle and § 87(2)(b) refused multiple times. He said, "I am not going anywhere." § 87(2)(b) then felt something spray him in the face. The spray caused his eyes to burn. § 87(2)(b) did not see who

sprayed him nor did he hear an officer say anything before he was sprayed. § 87(2)(b) was then pulled out of the car and put on the ground.

§ 87(2)(b) was temporarily blinded by the spray so he could not see what was going on. He said that it felt like five officers jumped on top of him and “beat” him. He was laying face down on the ground trying to get his hands under him. Officers hit § 87(2)(b) on the back and on the legs. At one point § 87(2)(b) felt an officer hit him in the legs with a metal club. § 87(2)(b) could not see which officer struck him with the club. At one point during the struggle § 87(2)(b) could not breathe because he was hit in the rib cage by an officer identified by the investigation as PO Goodwin. As § 87(2)(b) was being hit, he attempted to stand and get off the ground. He believed an officer called for additional officers to respond because two marked police cars arrived. § 87(2)(b) was handcuffed and one of the responding officers brought § 87(2)(b) to a police car. § 87(2)(b) was taken to the precinct and placed in a holding cell for approximately 30 minutes. § 87(2)(b) was eventually taken to Mary Immaculate Hospital where he was treated and remained for 3 hours. § 87(2)(b) sustained cuts to his wrist and his ankle from being on the ground with officers on top of him. His neck and the area around his ribs were sore from being hit in the back. § 87(2)(b) stated that he was out of work for two weeks due to the injuries. § 87(2)(b) did not have any visible injuries depicted in the photographs taken by IAB on the night of the incident, nor in his arrest photograph (Encl.7F-G).

During his IAB interview, § 87(2)(b) was shown photographic arrays containing the following officers: PO Catherine Gassick, PO Christopher Goodwin, PO Danielle Duignan, PO Shaun Weiler, PO Delcar Bruan, and PO Thomas Fitzgerald. § 87(2)(b) did not identify anyone from the arrays containing PO Fitzgerald, PO Braun, or PO Goodwin. § 87(2)(b) identified PO Gassick as one of the officers who struck him, but picked fillers on both PO Duignan’s and PO Weiler’s arrays.

§ 87(2)(b) was shown similar arrays by the CCRB on March 13, 2008. He again identified PO Gassick as one of the female officers who hit him.

### **Results of Investigation**

#### ***Civilian Witness***

§ 87(2)(b) was interviewed by IAB on December 24, 2007, and provided a phone statement to the CCRB on April 16, 2008 (Encl. 6 for statements). Her statements were mainly consistent, so the summary will be drawn from the information she provided to the CCRB directly. Discrepancies are noted where relevant.

§ 87(2)(b) was on a bus that was stopped in traffic at a red light at Union Hall Street and Archer Avenue in Queens on the date and time of the incident. The bus driver allowed the passengers to disembark before reaching the stop because there were numerous police cars blocking the intersection. As § 87(2)(b) approached the police officers she noticed that there was a taxi cab that appeared to have been pulled over by the police. There was an older male in the street, identified as § 87(2)(b) and ten to twelve officers on top of § 87(2)(b). § 87(2)(b) identified PO Goodwin by name and shield number (2808). PO Goodwin was hitting § 87(2)(b) repeatedly in the ribs. She described this officer as a tall, blonde male, with light eyes, and a medium build. § 87(2)(b) was pushing officers with his hands and his feet trying to get them off of him. A captain then arrived and pulled out a baton and told the officers to “break it up.” § 87(2)(b) knew that officer was a captain because she asked an officer standing on the sidewalk for the officer’s name. The officer she asked would not give her the “captain’s” name. There were other officers on top of § 87(2)(b) who were punching him, including a white female officer with blonde hair, identified as PO Gassick. § 87(2)(b) did not see the officers strike § 87(2)(b) anywhere else on his body besides his ribs. § 87(2)(b) commented that they could not hit his face because § 87(2)(b) was covering his face with his hands. When they picked § 87(2)(b) up, he had trouble walking.

#### ***Attempts to Contact Witnesses***

An anonymous female caller contacted 911 to report that a group of officers were beating on one male. Messages were left for the anonymous female on a non-descript answering machine, but she did not respond.

#### ***Interviewed officers***

The officers interviewed in relation to this case were identified from the complaint reports, line of duty reports, and AIDED reports filed as having physical involvement with § 87(2)(b) (Encl. 14-15).

These officers were PO Delcar Braun, PO Thomas Fitzgerald, PO Catherine Gassick, PO Shaun Weiler, and PO Christopher Goodwin. There were three foot posts, and three units listed as responding on the SPRINT (Encl. 16). Of the officers who the investigation identified were present and interacting with § 87(2)(b) only PO Braun was listed on the SPRINT. There were additional officers listed on the SPRINT, including two foot posts, PO Carl Callendar, a black male officer, and PO Ryan Hallahan, a white male officer. Sector C was also listed, and corresponded to PO Michael Sweeney, a white male officer who resigned from the service on January 14, 2008, and PO Nanette Williams, a black female officer. Two sergeant sectors responded, Sgt. Strom and his driver, and either the second or third tour patrol supervisor.

Judging from the fact that the majority of the officers who were identified by the paperwork as interacting with § 87(2)(b) were not listed on the SPRINT, the SPRINT in this case could not be used as a reliable piece of evidence in determining which officers physically interacted with § 87(2)(b). Additionally, all parties involved described that at least ten officers, if not more, responded to this incident, which further indicated that many responding officers did not notify central of their involvement in this incident. Additionally, judging from the statements that appear below, many officers responded who were not directly involved in apprehending § 87(2)(b). Because neither § 87(2)(b) nor § 87(2)(b) could provide detailed descriptions of the officers who used force against § 87(2)(b) on the ground, the investigation utilized the documentation to identify the potential subjects of the allegations in this case. The remaining officers listed on the SPRINT were not interviewed as there was sufficient evidence to come to a determination regarding the propriety of the allegations without conducting additional officer interviews.

#### ***Officer Statements***

**PO Catherine Gassick**—§ 87(2)(b) *at the time of the incident she had been on the force for a less than one year* (Encl. 13 for paperwork cited and statements).

On December 24, 2007, PO Gassick worked from 11:55 AM until 8:30 PM. She was assigned to Foot Post 10 with PO Braun. She was dressed in uniform, and was not assigned to a motor vehicle. PO Gassick did not have her memo book on the day of her interview, neither was it returned through an IAB request.

PO Gassick reported on her line of duty report that she sprained her left wrist while trying to arrest a perpetrator in relation to this incident who was violently resisting arrest. Her firearms discharge/assault report contained a similar narrative. It indicated that she did not use her baton or pepper spray against § 87(2)(b) and that she used self defense techniques, described as a “take down” to overcome assault.

PO Gassick also filed an AIDED report for PO Fitzgerald which indicated that PO Fitzgerald sustained a contusion to his right shoulder and right wrist as a result of struggling to handcuff § 87(2)(b). She filed a witness form for PO Fitzgerald’s Line of Duty report that stated that PO Fitzgerald injured himself as a result of falling to the ground while trying to arrest § 87(2)(b).

On May 14, 2008, PO Gassick was interviewed at the CCRB and provided the following narrative in her interview. PO Gassick and PO Braun were walking down Archer Avenue. As PO Gassick and PO Braun walked through the crosswalk, PO Gassick observed a cracked windshield on the first car stopped at a red light at the intersection. The car was a dark colored livery cab. There was a female passenger in the back of the vehicle. At that point, PO Gassick and PO Braun made the decision to issue the driver of the vehicle a moving violation summons for improper equipment.

PO Braun approached the passenger side, while PO Gassick approached the driver’s side window. PO Gassick explained to § 87(2)(b) “Sir, can you please pull over to the side when the light turns green and hand me your license, registration, and insurance.” § 87(2)(b) immediately became angry and began raising his voice, and asked PO Gassick what she was stopping him for. PO Gassick informed § 87(2)(b) that he had a crack in his windshield, and the officers were going to issue him an equipment summons. § 87(2)(b) continued to state, “No, I’m not pulling over. Why are you bothering me?” § 87(2)(b) was screaming and belligerent. PO Fitzgerald, who was walking east on Archer Avenue towards the intersection where PO Gassick and PO Braun were positioned, saw that PO Gassick and PO Braun were engaged in a car stop, and so he came over to assist. All three officers stood in front of § 87(2)(b)’s mirror on the driver’s side of his vehicle.

As the light turned green, § 87(2)(b) accelerated, and cut his wheel to the left, towards the officers, attempting to flee. PO Gassick stepped out of the way because she feared she would have been struck by § 87(2)(b)’s vehicle. As § 87(2)(b) began to turn left onto Archer Avenue, § 87(2)(b)’s car

stalled in the middle of the intersection. At that point, PO Gassick decided that in lieu of issuing § 87(2)(b) a summons, she intended to place § 87(2)(b) under arrest for disobeying a lawful order and for reckless endangerment for almost hitting the officers. By this time, the female passenger in § 87(2)(b)'s vehicle had left.

PO Gassick approached § 87(2)(b) and asked him to step out of the vehicle numerous times. He refused, and screamed, "Why are you stopping me? Leave me alone!" PO Gassick then attempted to pull his door open. § 87(2)(b) pulled the door closed, and tried to turn his car back on, but was unsuccessful. He then swung the door open as PO Fitzgerald, PO Bruan, and PO Gassick stood by the driver's window, and § 87(2)(b) hit PO Fitzgerald with the door near his torso and shoulder area. PO Gassick then unbelted § 87(2)(b)'s seatbelt, and pulled § 87(2)(b) out of the car by grabbing him by his shoulders and his arms.

PO Gassick informed § 87(2)(b) that he was under arrest and instructed him to give her his hands to be cuffed. PO Gassick told him to stop resisting arrest as § 87(2)(b) "locked up" and was "dead weight." § 87(2)(b) then went down on one knee, and pushed himself up. There was a car going westbound, and he toppled onto the car going westbound, stopped at the red light, hitting his chest onto the vehicle.

After § 87(2)(b) hit that car, he started to push and shove the officers. He went back to the ground and locked his arms, twisting his body around. He continued to kick and shove the officers, and made it very difficult for the officers to apprehend him. § 87(2)(b) struck PO Gassick, PO Braun, and PO Fitzgerald during this process. The other officers were also trying to pull his hands out from underneath him. He continued to move his arms around to avoid being handcuffed. A crowd gathered on the sidewalk while this was going on.

PO Gassick called for assistance for a disorderly male. About twenty officers responded to the 10-85. An additional two to three officers were required to subdue § 87(2)(b) and place him into handcuffs. PO Gassick could not remember who these additional officers were. PO Gassick remembered seeing PO Christopher Goodwin on the scene, although, she did not know what his role was. PO Shaun Weiler was also on the scene; however, PO Gassick did not learn this until later on at the hospital.

During the struggle, PO Gassick's wrist was twisted. The struggle lasted for one minute at the most. PO Gassick did not know if pepper spray was discharged at any point, although hers was not. PO Goodwin did not punch § 87(2)(b) nor did any officers strike § 87(2)(b) in the ribs. PO Gassick did see an officer with an asp out, she could not remember who, and the officer used it as an arm bar to pull § 87(2)(b)'s arm out from underneath him. PO Gassick did not see any officers strike § 87(2)(b) with the asp.

After § 87(2)(b) was in handcuffs, he continued to scream and act violently, and two officers had to transport § 87(2)(b) to a marked police vehicle because he was kicking his legs. § 87(2)(b) did not have any visible injuries that PO Gassick was aware of.

§ 87(2)(b) was taken to the precinct by vehicle, and PO Gassick, PO Braun, and PO Fitzgerald walked back to the precinct. PO Gassick saw Sgt. David Strom at the precinct, but she did not know if he responded to the scene. PO Gassick, PO Braun, and PO Fitzgerald sought medical treatment, and filed line of duty paperwork. PO Gassick also saw PO Weiler at the hospital, but she did not know what injuries he sustained.

**PO Delcar Braun**—§ 87(2)(b) *she was dismissed from the service on February 21, 2009* (Encl. 10 for paperwork cited and statements, Encl. 22M for circumstances of her departure from the service).

On December 24, 2007 PO Delcar Braun was working foot post 8, in uniform, from 11:55 AM until 8:30 PM. Her partner was PO Catherine Gassick. PO Braun entered in her memo book that at 4:00 PM there was a car stop at Union Hall Street and Archer Avenue. At 5:30 PM PO Braun was taken to § 87(2)(b) Hospital and at 9:30 PM PO Braun ended her tour.

PO Braun was injured as a result of this incident; however, the command could not locate any line of duty paperwork for her (Encl. 22I). PO Braun did file a witness statement for the line of duty report for PO Weiler, indicating that during a struggle to arrest § 87(2)(b) PO Weiler fell to the ground, and sustained an injury as a result.

On May 13, 2008, PO Braun was interviewed at the CCRB. PO Braun described the officers' approach to § 87(2)(b) and the vehicle in the same manner as PO Gassick: they approached him because of the crack in his windshield and he refused to pull over. He then drove forward, almost hitting PO Fitzgerald with his vehicle.

After § 87(2)(b)'s vehicle stalled in the intersection, PO Gassick approached § 87(2)(b) again and asked multiple times for his license and registration. PO Braun started to walk towards the vehicle and stood by the back door on the driver's side. PO Fitzgerald approached the car and stood next to PO Gassick. PO Fitzgerald told § 87(2)(b) that he needed to provide his ID. § 87(2)(b) refused and said, "I am not giving you my ID." § 87(2)(b) then opened the door and struck PO Fitzgerald with the door. PO Gassick and PO Braun reached into the open door of the vehicle and pulled § 87(2)(b) out. They then placed § 87(2)(b) against his vehicle. § 87(2)(b) pushed PO Gassick and PO Braun and the officers collided with a vehicle on the eastbound side of the road. PO Braun went to remove her asp to put § 87(2)(b) in an arm bar, but § 87(2)(b) pulled his arm away and PO Braun dropped the asp. PO Gassick grabbed § 87(2)(b) and held him up against the car. PO Braun removed her cuffs and managed to get the cuffs on his left arm. § 87(2)(b) pulled his hands away from the officers. He brought his arms in towards his chest and PO Braun tried to grab his right arm. § 87(2)(b) fell to the ground and PO Braun landed underneath § 87(2)(b). § 87(2)(b) then "headbutted" PO Braun and hit her in the chin. PO Braun used her forearm and placed it on the back of § 87(2)(b)'s neck so he could not "headbutt" her again. PO Braun was yelling, "Stop resisting and put your hands behind you back." PO Fitzgerald tried to get § 87(2)(b)'s arms out from underneath him. PO Braun stayed in this position until more officers responded and managed to put § 87(2)(b) into handcuffs. § 87(2)(b) was flailing his arms and kicking while he was on the ground.

PO Braun inhaled pepper spray at some point after they fell to the ground, but she did not know which officer used the pepper spray. As a result of PO Gassick radioing for assistance, numerous officers responded; PO Braun could not remember who these officers were, although, she did remember that Sgt. Strom responded to the scene. PO Braun was having trouble seeing due to the pepper spray. PO Braun sustained an injury to her finger and her knee, which she cut during the fall. PO Fitzgerald sustained an injury to his elbow and PO Gassick sustained an injury but PO Braun could not recall where. The officers were taken to § 87(2)(b) Hospital. The whole struggle lasted about a minute and a half. During the struggle about five to ten people had gathered on the sidewalk to watch what was going on. PO Braun did not see PO Goodwin get physically involved. She did not see PO Goodwin punch § 87(2)(b). PO Braun did not see an officer hit § 87(2)(b) with an asp. PO Shaun Weiler responded and he sustained an injury as well, however, PO Braun could not say how PO Weiler sustained his injury or how he assisted the officers.

**PO Thomas Fitzgerald—§ 87(2)(b)**

§ 87(2)(b) at the time of the incident he had been on the force for almost one year (Encl. 12 for paperwork cited and statements).

On December 24, 2007, PO Fitzgerald worked from 11:55 AM until 8:30 PM. He was assigned to Foot Post 6, and was working alone in uniform. He was not assigned to a motor vehicle at any point that day. PO Fitzgerald noted the following relevant memo book entries: 16:00—1 car stop at Union Hall and Archer Avenue, broken windshield. Subject refused to ID and became violent. 16:05—10-85 called, subject cuffed, one under. 17:00 EMS at 103 PCT for injured MOS, § 87(2)(b) Hospital.

PO Fitzgerald was injured as a result of this incident, and filed line of duty paperwork which indicated that he sustained an injury to his right elbow and his right shoulder due to § 87(2)(b) violently resisting arrest. His firearms discharge/assault report contained a more detailed narrative: § 87(2)(b) "was stopped for a broken windshield, § 87(2)(b) fled location nearl[y] striking an officer on scene with his vehicle. When stopped a short distance away, § 87(2)(b) violently resisted arrest [by] striking, kicking, and headbutting officers on scene." He also filed a witness statement and an AIDED report for PO Gassick's injuries, which noted that PO Gassick sprained her left wrist as a result of her attempts to arrest § 87(2)(b).

On May 15, 2008, Inv. Bijan Vafegh interviewed PO Fitzgerald at the CCRB. PO Fitzgerald's account of the events leading up to the point when § 87(2)(b)'s car stalled was consistent with the accounts provided by PO Gassick and PO Braun.

After § 87(2)(b)'s car stalled, PO Braun and PO Gassick approached § 87(2)(b)'s car, and tried to open his door to remove him. The officers had a struggling match with the door, and § 87(2)(b) then threw the door open and hit PO Fitzgerald in the chest or the front of his thigh. PO Braun and PO Gassick then pulled § 87(2)(b) out of the car.

After the officers removed § 87(2)(b) from the vehicle, he resisted violently by throwing his arms around, and he struck an unidentified officer, not PO Fitzgerald, with his forearm. § 87(2)(b) went to the ground, and took PO Braun and PO Fitzgerald down to the ground with him so that PO Braun was slightly

under the top half of the suspect's torso, and PO Fitzgerald was on his right side, trying to handcuff his arms. PO Fitzgerald landed on his shoulder. PO Braun grabbed § 87(2)(b)'s left arm and PO Fitzgerald grabbed his right arm. They were able to place the suspect into handcuffs after about four minutes. He did not remember whether there were additional officers involved in handcuffing § 87(2)(b).

A call for assistance was made, and many officers from the precinct responded. After § 87(2)(b) was in handcuffs, the impact supervisor, Sgt. Strom, arrived on the scene. PO Goodwin responded after the struggle, and PO Fitzgerald did not recall if he assisted in placing § 87(2)(b) into handcuffs; he never saw PO Goodwin punch § 87(2)(b).

PO Fitzgerald did not get sprayed with pepper spray at any point and it did not come to his attention that pepper spray was used. PO Fitzgerald did not remember PO Braun using her asp.

PO Fitzgerald, PO Gassick, PO Braun, and PO Weiler were taken to the hospital. PO Gassick hurt her wrist, PO Weiler injured his hand or his finger, and PO Braun was hit by an asp on her finger. PO Braun did not know when and how she was hit by the asp.

**PO Christopher Goodwin**—§ 87(2)(b); *at the time of the incident he had been on the force for almost one year* (Encl. 9 for paperwork cited and statement).

On May 27, 2008, Inv. Vafegh interviewed PO Goodwin at the CCRB. On December 24, 2007 PO Christopher Goodwin was working a tour from 11:55 AM until 8:30 PM. PO Goodwin was in uniform and by himself working foot post 11. He did not have any entries in his memo book regarding this incident.

PO Goodwin was coming back from a previous job when he heard a call for assistance from PO Gassick, and responded to the area of Union Hall and Archer Avenue. When PO Goodwin approached the scene he saw three officers, identified as PO Braun, PO Gassick, and PO Fitzgerald, on the ground struggling to place § 87(2)(b) into handcuffs. § 87(2)(b) was holding on to PO Braun and PO Fitzgerald was trying to grab his arms to place them behind his back. § 87(2)(b) appeared to be on top of PO Braun, and PO Goodwin could not see PO Gassick's involvement.

PO Goodwin assisted the officers in trying to handcuff § 87(2)(b) by trying to grab his arms and place them behind his back. § 87(2)(b) refused to give the officers his hands and held on to PO Braun. PO Goodwin thought that § 87(2)(b) was trying to hurt PO Braun by holding onto her, so he punched him twice in the side by his rib cages. PO Goodwin did not see § 87(2)(b) strike an officer at any point during this incident. Eventually more officers, up to ten in total, responded, and the officers were able to handcuff § 87(2)(b). PO Goodwin could not remember which additional officers responded.

The struggle to handcuff § 87(2)(b) took about a minute and a half. PO Fitzgerald, PO Gassick, and PO Braun received injuries and went to the hospital as a result. PO Goodwin did not know what injuries they sustained. After § 87(2)(b) was handcuffed PO Goodwin returned to his foot post. PO Goodwin did not see PO Weiler during this incident. PO Goodwin did not see an officer strike § 87(2)(b) with an asp. PO Goodwin did not see PO Fitzgerald strike § 87(2)(b). PO Goodwin believed someone used pepper spray against § 87(2)(b) but he did not know which officer used the spray. PO Goodwin did not notice any injuries on § 87(2)(b).

**PO Shaun Weiler**—§ 87(2)(b); *at the time of the incident he had been on the force for almost one year* (Encl. 11 for paperwork cited and statements).

On May 15, 2008, PO Weiler was interviewed at the CCRB. On December 24, 2007, PO Weiler worked from 1:25 PM until 10:00 PM. He was assigned to solo foot post 24. PO Weiler's memo book noted that at 4:00 PM, an 85 (call for assistance) was made at Archer Avenue and Union Hall Street.

PO Weiler filed line of duty paperwork for an injury he sustained as a result of this incident. It indicated that he sustained an injury to his finger due to § 87(2)(b) violently resisting arrest.

At around 4:00 PM on December 24, 2007, PO Weiler responded to a call for assistance at the location. He was one block away at the time. When he arrived PO Braun was on the ground at the rear of a vehicle, and § 87(2)(b) was on top of PO Braun. PO Fitzgerald was bent over at § 87(2)(b)'s right side, and had control of one of § 87(2)(b)'s arms, but was in the process of trying to pull the other arm off of PO Braun. Since § 87(2)(b) was kicking his legs around, PO Weiler went towards § 87(2)(b)'s foot area and attempted to hold his legs still so that the officers could get his hands behind his back and put him into handcuffs. PO Weiler's hand was injured from being crushed between § 87(2)(b)'s foot and the concrete.

After about ten to fifteen seconds he was put into handcuffs, and placed in the back of an RMP that had responded to the call for assistance. PO Weiler did not see any other officers engaged in the struggle. PO Weiler did not see anyone use pepper spray, nor did he smell it. He did not see any officers use an asp against § 87(2)(b). PO Weiler did not know if PO Goodwin responded. After § 87(2)(b) was in handcuffs, Sgt. Strom instructed PO Weiler and another unidentified officer to drive § 87(2)(b) back to the precinct in an RMP.

**PO Danielle Duignan**—§ 87(2)(b)

§ 87(2)(b) at the time of the incident she had been on the force for almost one year (Encl. 8 for paperwork cited and statement).

On December 24, 2007, PO Duignan worked solo foot post number nine in the confines of 103<sup>rd</sup> Precinct. She was in uniform and working a tour from 11:55 AM to 8:30 PM. PO Duignan's memo book noted that at 4:30 PM, a 10-85 (call for assistance) was made at Union Hall and Archer Avenue. At 4:47 PM, § 87(2)(b) was under arrest. At 7:10 PM, PO Duignan began processing the arrest. At 11:55 PM PO Duignan completed four complaint reports.

PO Duignan was assigned § 87(2)(b)'s arrest and filed his arrest paperwork. PO Duignan filed four **complaint reports** for § 87(2)(b) listing the four officers that appear above as the complainants. The narratives were identical, and indicated that at the date, time, and location of the incident, officers attempted to perform a car stop. § 87(2)(b) then attempted to flee the scene, nearly striking an officer with his vehicle. § 87(2)(b) was stopped a short distance away. He violently resisted arrest, resulting in four officers, identified as PO Fitzgerald, PO Gassick, PO Braun, and PO Weiler, sustaining injuries. § 87(2)(b) flailed his arms and refused to be handcuffed. He attempted to strike members of the service, and to push them into traffic. He "headbutt" and kicked members of the department in the leg. During the incident, § 87(2)(b) and the four officers fell to the ground where § 87(2)(b) was handcuffed. The **arrest report** contained a similar narrative, and indicated that a nightstick was used against § 87(2)(b) in the process of his arrest. He was initially charged with assault in the second degree, reckless endangerment in the second degree, criminal possession of a weapon in the fourth degree, resisting arrest, an equipment violation of the vehicle and traffic law, and unlicensed operation of a motor vehicle.

On May 13, 2008, Inv. Vafegh interviewed PO Duignan at the CCRB. She reported that when she arrived at the scene she saw § 87(2)(b) lying face down in the middle of Archer Avenue in handcuffs. Several officers picked up § 87(2)(b) and placed him into an RMP. § 87(2)(b) was then taken back to the stationhouse. PO Duignan saw PO Goodwin at the scene, but she did not see him interact with § 87(2)(b) nor strike § 87(2)(b) with his fist. She did not recall seeing PO Weiler at the scene. She did not see any officers use force against § 87(2)(b). She could not recall specifically which officers were around § 87(2)(b) nor who transported him into the RMP. PO Duignan had no interaction with § 87(2)(b) throughout this incident, nor did she notice any injuries on § 87(2)(b). She did not see an officer use pepper spray, or strike § 87(2)(b) with an asp.

### **Medical Records**

A subpoena was sent to § 87(2)(b) on March, 6, 2009 for § 87(2)(b)'s medical records. During follow up contact, hospital personnel confirmed that the records were sent to the CCRB on June 8, 2009. The documents, however, have yet to be received.

### **Police Documents**

The roll call confirmed the officers' tours as already noted in their statements, except for PO Weiler, whose assignment was not located in the Tour 2 or Tour 3 roll calls for the 103<sup>rd</sup> Precinct, nor was there a notation in the command log for the entire day of December 24, 2007, indicating a tour change for PO Weiler (Encl. 17 for roll call, Encl. 18 for command log). The command log entry for § 87(2)(b) (Encl. 18F) indicated that § 87(2)(b) was an "emotionally disturbed person" at the time of his arrest. No injuries were listed in the entry.

SPRINT M08097 was generated in relation to this incident (Encl. 16). There was no additional relevant information listed on the SPRINT not already addressed in other parts of this report.



### ***Civil Suit Documents***

§ 87(2)(b)'s attorney, § 87(2)(b), filed a notice of claim on his behalf on § 87(2)(b) (Encl. 20). § 87(2)(b) did not sign the document. § 87(2)(b) sought \$2,500,000 for a violation of § 87(2)(b)'s civil rights, false imprisonment, unjustified assault, and abuse. As of the date of this report, the claim is still with the comptroller's office and being investigated.

### ***Civilians' CCRB and Conviction Histories***

Neither § 87(2)(b) nor § 87(2)(b) has filed any additional CCRB complaints (Encl. 3).  
§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### ***Subject Officers' CCRB Histories***

Neither PO Gassick nor PO Goodwin has any previous CCRB cases substantiated against them (Encl. 2).

## **Conclusions and Recommendations**

### ***Officer Identification and Allegations Not Pleaded***

No "stop" allegation will be pleaded in this case because there was no dispute over the fact that § 87(2)(b) was initially approached by the officers for driving with a large crack in his windshield. A "pepper spray" (**Allegation A**) allegation will be pleaded against "an officer" because the subject of this allegation remained unidentified. There were only three officers who could have been the subjects of this allegation because the only officers present at the time were PO Gassick, PO Braun, and PO Fitzgerald. § 87(2)(b) did not see the officer who discharged pepper spray, § 87(2)(b) did not witness that part of the interaction, and none of the officers admitted to discharging pepper spray.

§ 87(2)(b) indicated that after the pepper spray was discharged, he could no longer see clearly what was taking place. He stated that there were numerous officers on top of him, hitting him in his back and his legs. A "force" allegation is pleaded against "officers" as it remained undetermined which officers struck § 87(2)(b) in his back and his legs (**Allegation B**). § 87(2)(b) alleged that PO Gassick was a subject of these force allegations, and § 87(2)(b) also identified PO Gassick by description as an officer who used force against § 87(2)(b) (**Allegation C**). A "force" allegation will be pleaded against "an officer" for the alleged use of an asp against § 87(2)(b) because this officer remained unidentified by the investigation (**Allegation D**). § 87(2)(b) could not see the officer who used the "asp," § 87(2)(b) did not report that she saw any officers strike § 87(2)(b) with an asp, and no officers admitted to using an asp against § 87(2)(b).

An additional "force" allegation will be pleaded against PO Goodwin for striking § 87(2)(b) in the ribs repeatedly (**Allegation E**). § 87(2)(b) identified PO Goodwin by name, shield, and description, and PO Goodwin identified himself as performing these actions. Although the investigation determined that PO Braun, PO Goodwin, PO Weiler, and PO Fitzgerald were the remaining officers who assisted in placing § 87(2)(b) into handcuffs, there was insufficient evidence to conclude that they were the subjects of

the force allegations made by § 87(2)(b) as he did not see who struck him, nor could § 87(2)(b) describe any other specific uses of force.

***Undisputed Facts***

It is undisputed that at around 4:10 PM on December 24, 2007, § 87(2)(b) was driving his livery cab, and stopped at a red light at the intersection of Archer Avenue and Union Hall Street. PO Braun and PO Gassick approached § 87(2)(b) because there was a large crack in his windshield. Although the actual commands that the officers issued to § 87(2)(b) are in dispute, all parties agreed that § 87(2)(b) did not comply with the officers' directions either to get out of his vehicle, or to pull his vehicle over. While this was taking place, PO Fitzgerald, on a nearby foot post, came to assist PO Braun and PO Gassick who were engaged in a verbal dispute with § 87(2)(b). After a struggle, § 87(2)(b) was placed under arrest for assault in the second degree, for an equipment violation for the large crack in his windshield, and for unlicensed operation of a motor vehicle. During his handcuffing, § 87(2)(b) resisted the officers' attempts to place him into handcuffs, and PO Goodwin punched § 87(2)(b) with his fist in the ribs at least twice.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

***Allegation A: An officer used pepper spray against § 87(2)(b)***

As stated in the officer identification section of this report, the subject officer of this allegation remained unidentified. There were only three officers present at the time when the pepper spray was allegedly discharged: PO Gassick, PO Braun, and PO Fitzgerald. These three officers denied using their pepper spray; however PO Braun reported inhaling it at some point during the struggle to arrest § 87(2)(b) confirming its use. § 87(2)(b) did not know who used the pepper spray, and there were no witnesses to these interactions. § 87(2)(b), § 87(2)(g)

***Allegation B: Officers used physical force against § 87(2)(b)***

***Allegation C: PO Catherine Gassick used physical force against § 87(2)(b)***

***Allegation D: An officer struck § 87(2)(b) with an asp.***

***Allegation E: PO Christopher Goodwin used physical force against § 87(2)(b)***

§ 87(2)(b), § 87(2)(g). He was attempting to stand up, kicking his legs, and pushing officers with his arms. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) did not sustain serious injury as a result of the force used against him. The *Police Student's Guide* regarding the use of force indicates that impact techniques such as batons, fists, or feet, can be utilized in situations where an individual is engaged in physical assault likely to cause physical injury (Encl. 1). § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: